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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/665,912	09/20/2000	Morihiro Murata	51270-024 5656	5458

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EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT

PAPER NUMBER

2653

DATE MAILED: 01/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/665,912

Applicant(s)

MURATA, MORIHIRO

Examiner

Aristotelis M Psitos

Art Unit

2653

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 January 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 03 January 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☒ Newly proposed or amended claim(s) 3,5,7,11,13-27,29 and 31 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-31.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Aristotelis M Psitos
Primary Examiner
Art Unit: 2653

Continuation of 2. NOTE: The new matter rejection was a result of applicant's amendment of 4/17/02. The examiner's positions as stated in the OA of 7/3/02 was in light of the claimed terminology "preserving". Amendments to the claims of 1/3/02 alter the language to --- reserving --- which inherently would require more than a cursory review of art developed and not developed due to applicant's prior amendments. Such will not be entertained at this time juncture under present USPTO practice. Again, the examiner concludes that the act of preserving is more limited than the act of reserving.

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's amendments to the previously objected to claims introducing the new word --- reserving --- as opposed to "preserving" requires a new interpretation of the claimed subject matter. This language requires further consideration(s) e.g., act of preserving implies no change, while act of reserving doesn't so limit. In any event this issue needs further explanation/exploration/expansion not possible at this time juncture and comparison of the remaining pending claims (indicated as allowable). If applicant desired such a consideration, the examiner recommends the filing of a RCE.

With respect to the indicated allowable subject matter, because amendments are not entered IN PART, the amendment placing claims 3, 5, 7, 11 and 13 as well as the amendments to claim 14, 18, 29 and 31 have not been entered. Nevertheless, they would be allowable if another amendment drawn to these claims was presented correcting the 112 problem in line with the submitted correction.